IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 6621 of 2006
Date of decision : 12.12.2006

Hari Singh.

.....Petitioner.

Versus

Shyam Lal & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.P.R. Yadav,Advocate
for the petitioner.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 14.8.2006 passed by the learned Civil Judge (Sr.Divn), Narnaul vide which the application moved by the petitioner under Order 39 Rules 1 & 2 C.P.C has been dismissed.

The petitioner had filed a suit for perpetual injunction against the defendants seeking restrain order from interfering in the peaceful cultivating possession of the petitioner in the land in his possession. Learned trial Court has taken a note of the fact that in fact the alternative land stands allotted to the petitioner and otherwise action was taken in accordance with provisions of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act,1948 and, therefore, the suit for injunction before the Civil Court was not competent as the petitioner has a remedy under the said Act. The learned counsel for the petitioner vehemently contends that as a matter of fact no order has been passed under the provisions of the East Punjab Holdings (Consolidation and Prevention

of Fragmentation) Act,1948 and merely on the basis of a scheme passed under Section 20 of the Act, possession is sought to be taken. This plea of the petitioner cannot be accepted in view of the prima facie finding that the petitioner has already been allotted the land. Therefore, petitioner has no prima facie case in his favour. Therefore, the learned Courts below were right in rejecting the application.

No ground for interference is made out.

Dismissed.

12.12.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**